

## MINUTES

### APPOMATTOX COUNTY PLANNING COMMISSION MEETING BOARD OF SUPERVISORS MEETING ROOM APPOMATTOX, VIRGINIA

Wednesday, March 11, 2020

Members Present: (Quorum)

George Almond  
Earl Dickerson  
Al Sears  
Annie Trent  
Steve Conner  
Sarah Blackwell

Members Absent:

Joshua Mills

Also Present:

Johnnie Roark, Director of Community Development

Mr. George Almond called the meeting to order at 6:00 p.m.

Mr. Almond determined there was a quorum and circulated the attendance sheet.

#### **Review/Approval of Minutes**

Mr. Al Sears motioned, with a second by Mr. Steve Conner, to approve the January 8, 2020 minutes. The motion carried unanimously.

#### **Public Hearing**

**RZ20-0071-SMTM Properties, LLC (Timothy and Samantha May, property owners)**, has requested to rezone property from R-1, Low-Density Residential to Conditional B-1, General Commercial to operate a Garden Center & Lawn Care Service Site on property located at 177 Ferguson Street, Appomattox, Virginia. The parcel totals 4.01 acres and is identified as Tax Map Identification Number 64 (A) 158. The property is designated as part of the Suburban Growth Area by the 2016 Comprehensive Plan.

Mr. Almond opened the public hearing by reading a summary of the petition and asked if anyone wished to speak either for or against the petition.

Mr. Earl Dickerson read the following declaration in accordance with the Conflict of Interest Act:

Per Code of Virginia §2.2-3112 (B) (2), and in accordance with Code of Virginia §2.2-3115 (I), I, Earl H. Dickerson, declare that I am an employee of the engineering firm Hurt & Proffitt. This firm has an active interest in the Timothy May rezoning petition. Mr. May is a client of Hurt & Proffitt, however, I do not personally represent or provide services to the client and I am able to participate in this petition fairly, objectively, and in the public interest.

Mr. Roark provided a staff report outlining the petitions impacts, applicable portions of the Zoning Ordinance and the Comprehensive Plan. Mr. Roark noted similar applicable portions of the Town of Appomattox Zoning Ordinance and Comprehensive Plan since this proposed development borders the Town of Appomattox.

Mr. Almond asked for the petitioner to speak. Mr. Timothy May, 647 Soybean Drive, Appomattox, Virginia provided an overview of his business and his proposed development. Mr. May stated that he started his business

in 2012 as a home occupation and has grown to the point of needing a stand alone facility. Mr. May pointed out that his proposed use will be similar in impact as the nearby VDOT maintenance facility. He stated that he has spoken to the adjoining property owners and they have all been supportive.

Kelly Paulette, 213 Lee Grant Avenue, Appomattox, Virginia spoke about stormwater issues in the area. Her concern was that this development would make that situation worse.

Trent Warner, engineer for the petitioner, spoke on the issue of stormwater and the improvements that would be made to the property. Mr. Conner asked about stormwater credits, if they would be used on this project. Mr. Warner stated that stormwater credits are the current standard practice and would most likely be used to offset installation of some practices.

Mr. Almond asked if anyone else wished to speak either for or against the petition.

Hearing no other speakers, Mr. Almond closed the public hearing at 6:20 p.m.

#### Discussion-RZ20-0071-SMTM Properties, LLC

Mr. Almond asked the Commissioners if they had any questions or comments.

Mr. Sears stated that the proposed development was certainly a need for the community but he questioned the impact on the traffic in that area. He was concerned due to the amount of school traffic between the primary school and the elementary school, along with the VDOT residency all being in the stretch of Ferguson Street.

Mr. Almond that his concern was the amount of other B-1 uses that would be possible if the property was rezoned. The B-1 zoning would allow for over 70 permitted uses and an additional 20 or so conditional uses.

Mr. Dickerson stated that he does not oppose the business, but is concerned about the B-1 zoning being in this area. The area is a residential area in his opinion.

Mr. Conner stated that the Town's and County's Comprehensive Plans both show the area as residential and the proposed development is not compliant with that type of development. He is also concerned about the traffic in the morning and evening.

Ms. Trent stated that she has a concern about the impact on traffic.

Mr. Conner stated that the neighbors concern about stormwater is legitimate. Stormwater credits do not solve the problem and in some cases may make it worse.

Mr. Sears asked if the petition should be tabled to allow the petitioner to consider voluntarily submitting proffers.

Mr. Dickerson stated that it is hard for him to see how proffers could mitigate the concerns raised by the Commissioners.

Mr. Conner motioned, with a second by Mr. Dickerson, that for reason of public necessity, convenience, general welfare, and good zoning practice, the Appomattox County Planning Commission moves to recommend denial of the rezoning petition of SMTM Properties, LLC to rezone property from R-1, Low-Density Residential to Conditional B-1, General Commercial, as the petitioner has failed to show the following: (1) the proposed development does not conform to the desired land use pattern as adopted in the Appomattox County

Comprehensive Plan, (2) the proposed development is out of character with the surrounding neighborhood, (3) land uses within the proposed zoning district will conflict with the surrounding neighborhood, and (4) the proposed development will have a negative impact on traffic circulation in the immediate area.

The motion carried unanimously (Mills absent).

## Old Business

### Discussion of Zoning Ordinance Amendments

Mr. Roark stated that the Board of Supervisors held a public hearing on the proposed amendments that the Planning Commission has been working on for some time. At the public hearing, a citizen, representing a group, provided the following comments:

#### Impact Assessments

When developing Code amendments and additions, it will help the public if the County would prepare an impact assessment describing the rationale and expected impact for each proposed action. This impact assessment will allow citizens to understand why the County is proposing the action, the problems being solved by the action, and the impact to citizens should the action be adopted.

After the action is adopted, the impact assessment needs to be part of the permanent record and available to the public. Having access to the impact assessment will be especially helpful to citizens when they apply for new permits and uses. From it they can gain a better understanding of the County's thinking for zoning requirements. Also, the impact assessment's descriptive information will help the County defend its zoning decisions should challenges or lawsuits arise.

Impact assessment should include the following for each proposed addition and/or amendment:

1. What problem is the County trying to solve?
2. Approximately how many properties will be impacted?
3. What will be the impact to affected properties? Will deeds need to be changed? Will new permits be necessary?

We ask that an impact assessment be developed for the amendments currently being proposed by the Planning Commission.

#### Questions about proposed amended terms and new terms

##### Amended Terms

**“Accessory Apartment”.** The intention of the phrase “established in conjunction with” is unclear. Does this mean a secondary dwelling must have been built at the same time as the principal dwelling unit? What if an apartment is later added to the principle dwelling unit?

##### **“Antique and Gift Shops”.**

1. What is the basis for requiring that 80% of merchandise be at least 50 years old? In shops of this type, the age of items and the percentage of such items changes over time and is difficult to control. Is it your expectation that shop owners will control their inventory to meet your age and percentage requirements? How do you envision enforcing the age and percentage requirements?
2. Are antique-type shops that sell space to independent vendors included in this definition, and will you hold store owners responsible for what the vendors sell? Antique shops and/or vendors often sell new merchandise and collectables that may be less than 50 years old.
3. Considering the above, what is the difference between an antique shop and a gift shop? And how do they differ from the current “Retail Stores and Shops” term? Is it even necessary to have a separate term for “Antique and Gift Shops”?

##### **Breweries, distilleries, and wineries.**

1. Please consider standardizing units. “Brewery” and “Distillery” use gallons, but barrels are used in the existing term for “Farm Brewery, Limited” and “[Microbrewery](#)”.
1. The new term “Farm Winery” does not have a quantity stipulation. Should it have one?

**“Buffering or Screening”.** What is meant by “maintained”? Do you mean someone must maintain the buffer or screen forever? Also, the meaning of the last sentence is unclear considering that buffer screens must be developed and then maintained.

**“Campground”.** The 30 consecutive day limitation will be inadequate in many instances. Examples of situations when people live in campgrounds for an extended period of time include during home construction and renovation, and workers hired for road, construction, or utility projects. What about multi-month campground leasing, and permanent campsites? It seems a bit discriminatory to well-established campgrounds that have many permanent sites leased for the lessee's enjoyment of their long-held site and our county. Also, this may be stifling to new part-time but valued residents.

##### **“Contiguous”**

1. The word “Contiguous” is used 18 times in the Code. Will current permits and/or deeds need to be changed as a result of adding “railroad, or public utility right of way”?
2. What problem is solved by adding railroads and public utility right of ways? What about properties divided by streams and rivers?

“**Correction facilities**”. Should violations of civil law be included too?

**“Development”.**

The changes are very concerning. What is the County’s intent and reason for defining so many families, family business, farmers, foresters, etc., as “developers”? Strictly read, just about any activity will turn them into a “developer”.

1. As written, if a homeowner builds a wood shed, tears down a dilapidated corn crib, removes sapling trees from their garden, or pulls up overgrown groundcover, they are now considered to be a ‘developer’.
2. This definition does not safeguard agriculture. It turns famers and foresters into developers.
3. Will everyone now have to seek the permits and comply with the regulations that are required for developers (e.g, VDOT, DEQ)? What are the economic consequences of being designated a “developer”?
4. Conflicting definitions: The last bullet lists “disturbance of land” with no limitation, yet the current definition for “**Land Disturbing Activity**” excludes “minor modifications to landscaping or agricultural activities such as planting, cultivating, and harvesting crops or trees, or growing or tending of gardens”.

**Please clarify** what you mean by “manufactured” and “mobile” homes – please note manufactured and mobile are different types of homes.

**“Mobile Home Park”.**

1. In lowering the number of units that make a property a “mobile home park”, properties that currently were not considered mobile home parks will now become just that. This change could cause economic the hardship to the property owner. What will property owners now be required to do? For example, will they now have to become a business, comply with permitting and building code requirements, and will deeds have to be changed?
2. What about family farms, or any farm that has mobile homes for employees? Will they become mobile home parks?
3. Will the county notify property owners of the new requirements and will you levy fines for non-compliance?
4. Also, this definition is for “mobile homes” yet it says “manufactured”. These are different types of homes.

**New terms**

**“Abutting”.** This new definition says properties separated by a road/alley are not “abutting”. Considering the changes made to “Contiguous”, are properties “abutting” if they are separated by a railroad or public utility right of way? How about a stream or river?

**“Automotive Wrecker Service”.**

1. The 60-day period is likely inadequate. Vehicles needing significant repair often sit for months awaiting insurance company determinations and/or acquisition of parts.
2. Why did you pick “nine (9) wrecked or inoperable vehicles” to be the threshold?

**“Density”.** Why does this only concern residential dwelling units? Commercial structures?

**“Facility Owner”.** Why does this only describe solar farms?

**“Temporary Business”**

**“Temporary Use”**

30 days is too short because of the new trend for “pop up” stores which are often for 60-90 days. Examples are pop up restaurants and Christmas shops.

**§19.6-86 Recreational Vehicles**

1. Does this apply to RVs parked in a campground on a temporary, annual, or permanent basis?
2. Please allow a provision for granting time extensions if home construction is delayed because of significant weather, material delays, etc.

The Board of Supervisors asked the Planning Commission to take a look at the concerns and make adjustments or report back.

After some discussion, it was the consensus of the Planning Commission that they had spent over two years on these changes that they have done the best they could the first time, they had studied the matters in depth, considered many texts and definitions, and would not be making any adjustments at this time.

**Adjournment**

Having no further business, Mr. Almond asked for a motion to adjourn.

Mr. Conner made a motion, with Mr. Dickerson seconding, that the meeting be adjourned. The motion carried unanimously (Mills absent). The meeting adjourned at 6:45p.m.

Approved As Written,

---

George Almond, Chairman  
Appomattox County Planning Commission

Attest:

---

Johnnie Roark, Clerk  
Director of Community Development